TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1903.

No. 561.

THE UNITED STATES *EX REL.* JOHN TURNER, APPELLANT,

vs.

WILLIAM WILLIAMS, UNITED STATES COMMISSIONER OF IMMIGRATION FOR THE PORT OF NEW YORK.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

FILED JANUARY 28, 1904.

(19,212.)

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1 In the Circuit Court of the United States for the Southern District of New York.

Ex Parte JOHN TURNER. Petition for Writ of *Habeas Corpus* and Certiorari.

To the honorable judges of the United States circuit court for the southern district of New York:

The petition of John Turner respectfully shows to the court, first, that on October 23rd in the city of New York your relator was arrested by divers persons claiming to be acting by authority of the Government of the United States and was by said persons conveyed to the United States immigration station at Ellis island in the harbor of New York and is now there imprisoned by the commissioner of immigration of the port of New York.

Second. Your relator is so imprisoned by virtue of a warrant sworn out by the Secretary of the Department of Commerce and Labor, which warrant charges your relator with being an anarchist and being unlawfully within the United States in violation of section 2 and section 20 of the immigration laws of the United States, as amended by act of March 3rd, 1903.

Third. Upon information and belief that a special board of inquiry consisting of Charles Semsey, Capt. Weldon, supervising inspector, and L. C. Steward all of whom are executive officers of the United States, has inquired into your relator's case and decided that your relator is an anarchist and is in the United States in violation of law within the meaning of the act of March 3, 1903.

2 Fourth. Your relator denies that he is an anarchist within the meaning of the immigration laws of the United States, and states to the court that about six years ago he took out his first papers of application for citizenship in this country, and that he has at no times been engaged as a propagandist of doctrines inciting to or advising violent overthrow of government, but for about six years last past he has been the paid organizer of the retail clerks of Great Britain and his business in this country is solely to promote the interests of organized labor, and that he has at all times conducted himself as a peaceful and law abiding citizen.

By reason of all of which facts your relator says that this imprisonment is illegal, in that he is being deprived of his liberty without due process of law and is being denied equal protection of the laws, contrary to the Constitution and laws of the United States.

Wherefore the relator prays that a writ be issued to William Williams, commissioner of immigration of the port of New York, directing him to have the body of your relator before the circuit court of the United States for the southern district of New York at a stated term thereof to be held in room 124 Federal building, on

Tuesday the 27th day of October, 1903, at two o'clock in the afternoon and that the lawfulness of your relator's imprisonment by the said commissioner be then and there inquired into.

Your relator further prays that a writ of certiorari be issued to William Williams, commissioner of immigration of the port of New York, Capt. Weldon, supervising inspector of immigra-
3 tion, commanding them to certify fully and at large to the said court at the same time and place of the record of the said board of inquiry by which your relator was adjudged to be an anarchist and in the United States in violation of the immigration laws.

JOHN TURNER.

Sworn to before me this 26th day of Oct. 1903.

LAWRENCE P. LEE,
[SEAL.] *Notary Public, N. Y. County.*

4 The President of the United States of America to William Williams, commissioner of immigration of the port of New York, and to all and every person and persons, officer and officers, having custody or control of the prisoner hereinafter named, Greeting:

Being informed that you or some of you have in your custody, one, John Turner, and being willing for certain reasons that the lawfulness of the said imprisonment be inquired into, we command that you have the body of John Turner before the circuit court of the United States for the southern district of New York in the second circuit at a stated term thereof to be held in room 124, Federal building on Wednesday the 28th day of October, 1903, at four o'clock in the afternoon what shall then and there be considered concerning the said John Turner, and have you then there this writ.

Witness the Honorable Melville Fuller, Chief Justice of the Supreme Court of the United States the 26th day of October, 1903.

[SEAL.] JOHN A. SHIELDS,
Clerk of the Circuit Court of the United States of America for the Southern District of New York, in the Second Circuit.

The foregoing writ is hereby allowed.

E. H. LACOMBE,
U. S. Circuit Judge.

5 President of the United States of America to William Williams, commissioner of immigration of the port of New York; Capt. Weldon, supervising inspector, and —— ——, inspector:

We command that you certify fully and at large to the circuit court of the United States for the southern district of New York at a stated

A. Yes, sir. I want to say in reference to that paper that while Mr. Turner was turning the corner of 35th street, he rolled this paper up into a small pile and threw it in the street. It was picked up by Chief Flynn and handed to me.

13 Q. Are the pencil marks in Mr. Turner's handwriting?

A. I suppose they are.

Mr. TURNER: "I want to say, Commissioner, that they are."

(Attention is called to the fact that the lecture mentioned on Exhibit "C" to be held November 13, was on the subject of "The essentials of anarchism.")

Q. Have you some other papers that were found on Mr. Turner's person?

A. I think I gave you all I had. I also wish to say that I handed several papers to Mr. Govern, who was present.

Q. Were the papers in envelope marked "G" also found on Mr. Turner's person? Let Mr. Turner see them.

A. I readily recognize having taken all of these papers from Mr. Turner's person last night.

Q. Did you hear Mr. Turner state that he was an anarchist?

A. I did, sir. I submit a notation made at that particular part of his speech.

Q. Is paper marked "H" a memorandum in your own handwriting of a portion of the speech?

A. Yes, sir.

Q. I find the words "an anarchist"—did he use those words, speaking of himself?

A. Yes, sir.

(Exhibit "H" shown to Mr. Turner.)

Q. Did you find at the meeting, ready for distribution, a book entitled "Modern Science and Anarchism," Exhibit "I"?

A. I did not find that particular book.

(Mr. Govern found Exhibit "I" at the meeting.)

Mr. JOHN TURNER, having first duly affirmed that he would tell the whole truth, testifies as follows:

14 Q. You are an Englishman?

A. I am.

Q. Look at Exhibit "H" please. Do you admit its correctness?

A. Well, of course, one can't remember all of what one says—I should say that it is fairly correct.

Q. Did you state that you were an anarchist?

A. It is just possible that I did—it is just possible that I should make such a statement.

Q. As against the positive affirmation of these gentlemen here you would not undertake to deny it?

A. No, I would not. It is a very probable statement—a statement that I would make.

Q. Are you familiar with the immigration laws?

A. I can't say I am, Commissioner. I believe there have been many restrictions in the immigration laws of late. We have heard it, of course, discussed in labor circles in England—of the greater stringency in the immigration laws. I may say that I do not consider myself an immigrant.

Q. I will correct that impression—the law applies to aliens, and not to immigrants alone.

Q. How long have you been in the United States?

A. Is it necessary that I should answer that, Commissioner?

Q. The statutes contemplate that aliens shall give all information to immigration officers?

A. Well, to-day is Saturday—ten days.

Q. And you admitted previously that you arrived via Canada?

A. No, I did not, Commissioner.

Q. You will deny that?

A. I neither affirm or deny it. I told you I did not come through New York. That is what I told you. I said I must decline to answer that question, if you remember.

15 Q. You have heard what has been testified to by Inspector McKee and Inspector Weldon concerning last night's meeting?

A. Yes.

Q. Do you admit the substantial accuracy of what has been said?

A. Yes, I think that is about correct. I would like to make a statement in regard to these exhibits—a mistake has been made. I saw these (referring to Exhibits F and D) in the hands of the officers last. Those are the only ones. I think they have probably got in my mistake. I have never seen those before. I think this is an error—I would not say that this book was in my pocket—of course it is the same date—I saw that number before.

Mr. WELDON: I want to say positively that I took that from Mr. Turner's overcoat pocket last night.

Mr. TURNER: Of course it's only a little technicality; but I think that is the same number.

(Mr. WILLIAMS:)

Q. Did you intend remaining in the United States any length of time?

A. Probably for a few months. I hope to get through to see my brother who is in Colorado and to meet a number of friends here, and to do some business here.

Mr. WELDON: Mr. Chairman: It having been shown by the evidence here and also by the admissions made by the defendant John Turner, that he is an anarchist, and that he is here in violation of the act approved March 3, 1903, I move that he be excluded and

not be permitted to land in the United States, and that he be deported.

16 Inspector STEWARD: I second the motion.

The board decides by a unanimous vote that John Turner is an alien found in the United States in violation of law, and that he be deported.

True copy.

JOSEPHINE A. MacDONALD.

17 EXHIBIT "A."

Extracts from Speech Delivered by John Turner at Murray Hill Lyceum, New York City, on Friday Evening, October 23, 1903.

The United Trades Unions of England, in the formation of which I have played a simple part, now number two million men. * * * The assessments in those unions are heavy enough to support those out of work, and also to provide a pension for the superannuated and a death benefit, thus making it to the benefit of all workers to remain loyal to the unions which are ready at all times for a struggle with the employers. * * * The trades unions of other European countries have behind them many grand social ideals, but at present behind the English trades unions there are little indeed. The English workman is satisfied to whittle away, and of course if they keep on whittling they will get to the end of the stick. * * * This question of a general strike is forcing itself more and more upon us, and we are compelled to look the facts in the face. * * * The employers are organizing, and there will surely come a time when the organized employers and the workers will come to close grips. * * * I think it very likely that the employers in their desire to break up the unions will precipitate matters, and will eventually give an ultimatum to the workingmen to the effect that unless they abandon their unions they will lock them out and crush them. Now, Mr. Chairman, are the workers going to abandon their organizations at the dictation of the employers? I say quite frankly that the working people will never give up the organizations that they have built. * * * Workers sometimes get

18 hotheaded, but they are slow to act. If the workers had the audacity, and the courage, and the power of their employers, they would supplant them in 48 hours. * * * If the workers were all educated in the advanced way, it would be impossible for them to be imposed upon the way they are now. * * * All over the industrial world a new spirit has arisen. Both sides, the employers and the workers, have been organizing, and the big struggle between the two is bound to come. Just imagine what a universal tie-up would mean. What would it mean in New York city alone if this idea of solidarity is spread through the city. If no work was being done, if it were Sunday for a week or a fortnight,

life in New York would be impossible, and the workers, gaining in audacity, would refuse to recognize the authority of the employers, and eventually take to themselves the handling of the industries. * * * All over Europe they are preparing for a general strike, which will spread over the entire industrial world. Everywhere the employers are organizing, and to me, at any rate, *as an anarchist*, as one who feels that the people must emancipate themselves, I look forward to this struggle as an opportunity for the workers to assert the power that is really theirs. * * * The trades unions have been growing, and have now reached big proportions. The inevitable outcome is a struggle between the two, and the general strike offers to advanced people an opportunity to demonstrate their power, and to us, who belong to the advanced movement, an opportunity to help the workers to gain in audacity and courage, and thus determine as quickly as possible their emancipation.

True copy.

J. J. McKEE,
U. S. Immigrant Inspector.

19 EXHIBIT "B."

Mass Meeting.

JOHN TURNER,

Chief organizer of the National Shop Assistants' (Retail Clerks') Union of England and member of the executive committee of the London trade- council,

Will lecture in

Murray Hill lyceum,

160–164 E. 34th St., near 3rd avenue,

Friday, October 23rd, at 8 p. m.

Subject: "Trades unionism and the general strike."

Admission..... 10 cents

Those who remember Comrade John Turner from his tour in 1897 will surely be pleased to see him again, whilst those who have not yet heard him will find him a most agreeable personality and an able exponent of the cause of freedom.

It may also be interesting to all that Turner has recently refused to accept a candidacy to Parliament, because of his anarchistic principles.

NOTE.—On the reverse of this card, Exhibit B, is printed in German practically the same statements as above set forth.

20 EXHIBIT "C."

Attention!

JOHN TURNER,

Chief organizer of the National Shop Assistants' (Retail Clerks') Union of England, and member of the executive committee on the London trades council,

Will deliver a series of lectures on the following dates:

Tuesday, October 27, 8 p. m.—at New Irving hall, Broome St., bet. Norfolk and Suffolk Sts. Subject: The labor struggle.

Sunday, November 1, 3 p. m.—before the Brooklyn Philosophical Association. At Long Island business college, South Eighth street, Brooklyn. Subject: Socialism and politics.

Sunday, November 8, 8 p. m.—before the Women's Henry George Club. At 224 E. 62nd street, New York. Subject: The labor struggle.

Monday, November 9, 8 p. m.—at Bronx casino, 2994 Third avenue. Subject: The legal murder of 1887.

Wednesday, November 13, 8 p. m.—before the Manhattan Liberal Club 220 E. Fifteenth street. Subject: The essentials of anarchism.

Other lectures will follow.

NOTE.—The days of the week on this exhibit were written in pencil.

21 Exhibit D is an eight page newspaper entitled—

"Free Society."

"A periodical of anarchist thought, work and literature. *Vol. X. No. 42.* Chicago, Sunday, October 18, 1903."

At the head of the editorial column appears the following:

"Free Society, formerly the Firebrand."

"Anarchy—A social theory which regards the union of order " with the absence of all direct government of man by man as the " political ideal; absolute individual liberty.—Century Dictionary."

In this paper appear several articles on anarchists and anarchy and an announcement in the following terms:

"For New York.

" John Turner will lecture in Murray Hill lyceum, 160 E. Fourth " St., near Third Ave., Friday, Oct. 23, 8 p. m. Subject, "Trade " unionism and the general strike." Admission 10 cents."

22 EXHIBIT "E."

A great
mass meeting

Will be held at

Bronx Casino

2994–2998 Third Ave.

on

Monday, Nov. 9th, 8 p. m.

Speeches will be delivered by

JOHN TURNER in English

JOHN MOST, in German

and several other speakers.

Don't miss this opportunity to hear the truth expressed about the great Chicago tragedy on the eleventh of November, 1887.

NOTE.—On the reverse of this card, Exhibit E, is printed in German practically the same statements as above set forth.

23 Exhibit "F" is a printed pamphlet entitled "Down with the Anarchist," and underneath these words is printed "This is the war cry raised by President Roosevelt and echoed by the Congress of the United States. Now then hear the other side. Anarchists will take the floor. Listen." Then follows various quotations from the writings of John Most and from the writings of other authors on subjects relating to anarchy.

EXHIBIT "H."

From lecture of John Turner, delivered October 23, 1903, at Murray Hill lyceum.

"And to me at any rate, *as an anarchist*, as one who feels that the people must emancipate themselves, I look forward to this struggle as an opportunity for the workers to assert the power that is really theirs."

J. WELDON.

24 *Exhibit 1* is a pamphlet of some ninety-four pages entitled—

"Modern Science and Anarchism by Peter Kropotkin trans-
"lated from the Russian generally by David A. Modell."

Exhibit G consists of various papers of no particular importance, except a card announcing the fact that John Turner would lecture in the Murray Hill lyceum on October 23, subject, "Trade unionism and the general strike." On this card also appears the statement that

"It may be interesting to all that Turner has recently refused to
"accept a candidacy to Parliament because of his anarchistic prin-
"ciple-."

(Endorsed:) U. S. circuit court, southern district of New York.—In the matter of the detention of John Turner. Return to writs of *habeas corpus* and certiorari. Robert A. Paddock, counsel for commissioner of immigration, 49 Wall street, Manhattan, New York. U. S. circuit court southern district of New York Filed Nov. 7, 1903, John A. Shields, clerk.

25 United States Circuit Court, Southern District of New York.

THE UNITED STATES *ex Rel.* JOHN TURNER
vs.
WILLIAM WILLIAMS, U. S. Commissioner of Immigration for the Port of New York.

Application for Habeas Corpus to Discharge from Custody.

LACOMBE, *Circuit Judge:*

The immigration act of March 3, 1903 increased the number of classes of aliens, who were to be excluded from admission into the United States. Among these additional classes are found "polygamists, anarchists, or persons who believe in or advocate the overthrow by force or violence of the Government of the United States or of all government or of all forms of law, or the assassination of public officials."

The board of special enquiry has examined into the facts and decided that Turner is an "anarchist;" that decision is not open to review here.

The contention of relator is that the exclusion act is unconstitutional. That objection has been raised in very many cases and in all of them has been overruled: indeed counsel concedes, for the purposes of this argument, that as to all the kinds of persons enumerated in the act except anarchists, it is within the constitutional power of Congress to exclude them. It is undoubtedly true

26 that in the case of persons who are insane, or afflicted with contagious disease, or of some particular race or nationality,

or who have been convicted of crime involving moral turpitude the differentiation is physical rather than mental. Nevertheless it is now perceived why the principles laid down in Ekiu's case 142 U. S. 657 and a long line of similar decisions do not apply equally to a person who is differentiated by the possession and advocacy of specified beliefs as to the conduct and regulation of society.

"It is an accepted maxim of international law, that every sov-reign nation has the power, as inherent in sov-reignty, and essential to self-preservation, to forbid the entrance of foreigners within the dominions, or to admit them only in such cases and upon such conditions as it may see fit to prescribe. * * * In the United States this power is vested in the National Government, to which the Constitution has committed the entire control of international relations, in peace as well as in war." Ekiu's case *supra*.

Undoubtedly the Constitution which committed this power to the National Government might have restricted its exercise in any way that seemed appropriate to the persons who framed that instrument and to the States which adopted it. But the difficulty with the relator's case is that he can turn to no such restriction which affects him.

His contention is that Congress is prohibited from excluding anarchists by the provisions of article I of the amendments to the Constitution, which reads: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise
27 thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." It is difficult to understand upon what theory the exclusion of an alien, who is an anarchist, can be held to be a prohibition of the free exercise of religion. As to abridgement of the freedom of speech, that clause deals with the speech of persons in the United States and has no bearing upon the question what persons shall be allowed to enter therein.

All the other questions raised upon this application have been decided in earlier cases and need not be discussed. It was intimated on the argument that in the event of an adverse decision the relator expected to take an appeal direct to the Supreme Court. Should this be done the present custody of the prisoner will not be disturbed pending such appeal.

The writ is dismissed.

(Endorsed:) Circuit court of the United States, southern district of New York.—The United States *ex rel.* John Turner, *vs.* William Williams, U. S. commissioner of immigration for the port of New York.—Opinion, Lacombe, C. J.—U. S. circuit court, southern district of New York, Filed Nov. 7, 1903, John A. Shields, clerk.

28 At a stated term of the United States circuit court for the southern district of New York held at the Post Office building in the borough of Manhattan, city of New York, on the 11th day of November, 1903.

Present: The Honorable E. Henry Lacombe, judge.

UNITED STATES *ex Rel.* JOHN TURNER
vs.
WILLIAM WILLIAMS, U. S. Commissioner of Immigration at the Port of New York.

A petition having heretofore been presented to me setting forth that the above-named John Turner was restrained of his liberty by William Williams, United States commissioner of immigration at the port of New York, and a writ of *habeas corpus* having thereupon been issued commanding said William Williams to produce said John Turner before this court; and the said William Williams having produced the said John Turner in obedience to said writ, and having filed a return to said writ verified the 27th day of October, 1903, setting forth the cause of the detention of said John Turner; and the said John Turner, the petitioner herein, appearing by his attorneys Pentecost & Campbell, having demurred to said return upon the ground that it is insufficient in law upon the face thereof; and the matter coming on to be heard the 28th day of October, 1903; now, on reading and filing the above-mentioned petition and return, and after hearing Hugh O. Pente-
29 cost of counsel for the petitioner in support of the demurrer, and Robert A. Paddock of counsel for William Williams, the United States commissioner of immigration, in opposition thereto; upon motion of Robert A. Paddock, attorney for said William Williams,

It is ordered that the said writ of *habeas corpus* be and the same hereby is dismissed, and the said John Turner is hereby remanded to the custody of the United States commissioner of immigration at the port of New York.

It is further ordered that should the petitioner appeal from this order to the Supreme Court, the custody of said John Turner shall not be disturbed pending the final disposition of said appeal.

E. HENRY LACOMBE, *U. S. C. J.*

(Endorsed:) United States circuit court, southern district of New York.—United States *ex rel.* John Turner, *vs.* William Williams, U. S. commissioner of immigration at the port of New York.—Order dismissing writ.—Service of a copy of the within notice and proposed order is hereby admitted this 9th day of Nov. 1903.—Pentecost & Campbell, att'ys for petitioner.—Robert A. Paddock, counsel for commissioner of immigration, 49 Wall street, New York.—U. S. circuit court, southern district of New York, Filed Nov. 11, 1903, John A. Shields, clerk.

30 United States Circuit Court, Southern District of New York.

UNITED STATES *ex Rel.* JOHN TURNER
against
WILLIAM WILLIAMS, Commissioner of Immigration for the Port of New York.

In the matter of the petition of John Turner for a writ of *habeas corpus*.

SIR: Please to take notice that the relator herein, John Turner, herein appeals to the United States Supreme Court from the final order made herein, on the 11th day of November, 1903, dismissing the writ of *habeas corpus* herein, and remanding the relator herein to the custody of the commissioner of immigration for the port of New York.

Dated this 11th day of November, 1903.

PENTECOST & CAMPBELL,
Attorneys for John Turner, 346 *Broadway*,
Manhattan Borough, New York City.

To the honorable judges of the United States circuit court, for the southern district of New York.

To the clerk of the United States circuit court for the southern district of New York, N. Y. city; and

To William Williams, commissioner of immigration for the port of New York, N. Y. city.

31 (Endorsed:) United States circuit court, southern dist. of N. Y.—U. S. *ex rel.* John Turner, against William Williams, com. of immigration.—Notice of appeal, Pentecost & Campbell, attorneys for John Turner, 346 Broadway, New York city.—U. S. circuit court, southern district of New York, Filed Nov. 11, 1903, John A. Shields, clerk.

32 United States Circuit Court, Southern District of New York.

UNITED STATES *ex Rel.* JOHN TURNER
against
WILLIAM WILLIAMS, Commissioner of Immigration for the Port of New York.

In the matter of the petition of John Turner for a writ of *habeas corpus*.

The petition of the above named petitioner for an order allowing an appeal to the Supreme Court of the United States from the final order hereinbefore entered in this case.

John Turner, the petitioner and appellant above named, feeling himself aggrieved by the final order heretobefore made and entered by this court in this case on the 11th day of November, 1903, whereby the writs of *habeas corpus* and *certiorari*, directed to William Williams, commissioner of immigration of the port of New York, requiring said Williams to bring and have your petitioner before this court, together with the true cause of the detention of your petitioner, be and the same was thereby dismissed, now comes, by Pentecost & Campbell, his solicitors and counsel, and petition- this court for an order allowing him, said petitioner, to prosecute an appeal from said final order to the Supreme Court of the United States under
33 and according to the laws of the United States in that behalf made. Your petitioner is advised by counsel that there are grave doubts as to whether the dismissal of said writs have not infringed the constitutional rights of your petitioner, and your petitioner desires in good faith to submit the constitutional questions and other questions involved to the Supreme Court for their determination.

Your petitioner will ever pray.

PENTECOST & CAMPBELL,
Attorneys for Petitioner, 346 *Broadway*,
Manhattan Borough, New York City.

UNITED STATES OF AMERICA,
Southern District of New York, } *ss.:*

John Turner, being duly sworn says that he is the petitioner above named; that the foregoing petition is true of his own knowledge except as to the matters therein stated to be alleged on information and belief, and that as to those matters he believes it to be true.

JOHN TURNER.

Sworn to before me this 11th day of November, 1903.

LAWRENCE P. LEE,
[SEAL.] *Notary Public, N. Y. Co.*

The foregoing petition on appeal is granted, and claim of appeal therein made is allowed. Appeal bond fixed at $250.

E. HENRY LACOMBE, *U. S. C. J.*

34 SOUTHERN DISTRICT OF NEW YORK, *ss:*

Lawrence Divizio being duly sworn says that he resides at 2044 First avenue, New York city, and that he is twenty-one years of age and upwards; that on the 27th day of November, 1903, he served copies of the petition of appeal and citation hereto annexed upon William Williams the defendant named in this action by leaving copies of the said petition and citation in the executive office of the immigrant station at Ellis island with the person in charge of said office, at the same time showing that person the original petition and citation, and having been informed by the said person in charge that Commissioner Williams was not at Ellis island.

LAWRENCE DIVIZIO.

Sworn to before me this 11th day of December, 1903.

GIRARD S. WITTSON,
Notary Public, N. Y. Co.

35 United States Circuit Court for the Southern District of New York.

THE UNITED STATES *ex Rel.* JOHN TURNER
against
WILLIAM WILLIAMS, United States Commissioner of Immigration for the Port of New York.

And now comes the relator, John Turner, by his attorneys Pentecost & Campbell, and makes and files the following assignments of errors.

First. The court erred in deciding that the decision of the board of special inquiry to the effect that the relator is an "anarchist" and "a person who disbelieves in or who is opposed to all organized government," within the meaning of the act of March 3, 1903, entitled "An act to regulate the immigration of aliens into the United States," is not open to review in this proceeding.

Second. The court erred in deciding that there is no restriction in the Constitution of the United States upon the power of Congress to regulate immigration which affects the relator.

Third. The court erred in deciding that the guarantee of freedom of speech contained in article one of the amendments to the Constitution, "deals with the freedom of speech of persons in the United States and has no bearing on the question what person shall be allowed to enter therein."

36 Fourth. The court erred in deciding that the relator is not a person in the United States and that he is not entitled to the benefit of this constitutional guarantee.

Fifth. The court erred in deciding that the act of March 3, 1903, entitled "An act to regulate the immigration of aliens into the United States," in the provisions thereof, providing for the exclusion of "anarchists" in section two thereof, and providing for the exclusion of "a person who disbelieves in or who is opposed to all organized government" in section 38 thereof is constitutional.

Sixth. The court erred in dismissing the writ of *habeas corpus* herein on all of the above grounds.

By reason whereof the relator John Turner prays that the order and judgment dismissing the writ of *habeas corpus* and remanding him to the custody of William Williams, United States commissioner of immigration for the port of New York be reviewed and that he be discharged from custody.

PENTECOST & CAMPBELL,
Attorneys for Relator, 346 Broadway,
Manhattan Borough, New York City.

37 Circuit Court of the United States of America for the Southern District, in the Second Circuit.

UNITED STATES *ex Rel.* JOHN TURNER *vs.* WILLIAM WILLIAMS, United States Commissioner of Immigration for the Port of New York.	Bond for Costs on Appeal.

Know all men by these presents, that we, John Turner, the relator herein, principal, and David Rousseau, residing at 310 Mott avenue, borough of Bronx, New York city, are held and firmly bound unto the above named William Williams, United States commissioner of immigration for the port of New York, in the sum of two hundred and fifty dollars ($250.), to be paid to the said William Williams for the payment of which well and truly to be made, we bind ourselves and each of us, our and each of our heirs, executors, administrators, jointly and severally firmly by these presents.

Sealed with our seals and dated the 13th day of November, 1903.

Whereas, the above named John Turner, has prosecuted a writ of error to the United States Supreme Court to reverse the judgment rendered in the above entitled proceeding, by the judge of the cir-

cuit court of the United States for the southern district of New York;

Now, therefore, the condition of this obligation is such, that if the above named John Turner shall prosecute his writ of error to effect and answer all damages in court and if he fail to make his
38 plea good then this obligation shall be void, otherwise the same shall be and remain in full force and virtue.

JOHN TURNER, *Principal.*
DAVID ROUSSEAU, *Surety.*

UNITED STATES OF AMERICA, } ss:
Southern District of New York, }

On this 13th day of November, 1903, before me personally appeared David Rousseau, to me personally known and known to me to be the individual of that name mentioned and described in the foregoing instrument and he thereupon duly acknowledged to me that he executed the same.

JACOB SGANGA,
Notary Public, New York Co., No. 70.

UNITED STATES OF AMERICA, } ss:
Southern District of New York, }

David Rousseau being duly sworn says that he is the person named as surety in the foregoing instrument and that he is worth the sum of five hundred dollars over and above all *the* just debts and liabili*ty.*

DAVID ROUSSEAU.

Sworn to before me this 13th day of November, 1903.

JACOB SGANGA,
Notary Public, New York Co.

39 UNITED STATES OF AMERICA, } ss:
Southern District of New York, }

On this 14th day of November, 1903, before me personally appeared John Turner, to me personally known and known to me to be the individual of that name mentioned and described in and who executed the foregoing instrument and he thereupon duly acknowledged to me that he executed the same.

LAWRENCE P. LEE.
[SEAL.] *Notary Public, N. Y. C.*

(Endorsed:) United States circuit court, for the southern district of N. Y.—The United States *ex rel.* John Turner, plaintiff *vs.* William Williams, U. S. commissioner of immigration for the port of New York, defendant. Bond for costs on appeal. Approved as to form and also as to sufficiency of sureties, with reservation, however to the defendant of the right at any time to examine the surety under oath, touching his assets, liabilities and financial condition generally. E. Henry Lacombe, U. S. circuit judge. U. S. circuit court, southern district of New York. Filed Dec. 1, 1903. John A. Shields, clerk.

40 By the Honorable E. Henry Lacombe, one of the judges of the circuit court of the United States for the southern district of New York, in the second circuit.

To William Williams, United States commissioner of immigration for the port of New York, Greeting:

You are hereby cited and admonished to be and appear before the United States Supreme Court to be holden in the city of Washington, District of Columbia, on the 2nd day of December, 1903, pursuant to a writ of error and petition of appeal filed in the clerk's office of the circuit court of the United States, for the southern district of New York, in the second circuit, wherein The United States of America *ex rel.* John Turner is complainant and William Williams, United States commissioner of immigration for the port of New York, is defendant, and you are required to show cause if any there be, why the judgment in said petition of appeal mentioned should not be corrected and speedy justice should not be done in that behalf.

Given under my hand at the borough of Manhattan, in the city of New York, in the district and circuit above named this 11th day of November, in the year of our Lord one thousand nine hundred and three, and of the Independence of these United States the one hundred and twenty-eighth year.

E. HENRY LACOMBE,
Judge of the Circuit Court of the United States
for the Southern District of New York,
in the Second Circuit.

41 SOUTHERN DISTRICT OF NEW YORK, *ss:*

Lawrence Divizio being duly sworn says that he is twenty-one years of age and upwards, and resides at 2044 First avenue, New York city; that on the 27th day of November he served a copy of the citation hereto annexed upon the defendant herein by leaving a copy of the citation with the chief clerk of the executive offices

of the United States immigrant station at Ellis island at the same time showing him the original citation.

LAWRENCE DIVIZIO.

Sworn to before me this 28th day of November, 1903.

JACOB SGANGA,

[SEAL.] *Notary Public, New York Co., No. 70.*

(Endorsed:) United States circuit court, southern district of New York.—United States *ex rel.* John Turner, plaintiff, against William Williams, U. S. comm'r of immigration, defendant.—Petition of appeal, assignments of error and citation.—Pentecost & Campbell, attorneys for relator, 346 Broadway, New York city.—U. S. circuit court, southern district of New York, Filed Dec. 1, 1903, John A. Shields, clerk.

42 UNITED STATES OF AMERICA, *Southern District of New York,* } *ss:*

I, John A. Shields, clerk of the circuit court of the United States of America, for the southern district of New York, in the second circuit, do hereby certify that the foregoing pages, numbered from one to forty-one, inclusive, contain a true and complete transcript of the record and proceedings had in said court, in the cause entitled United States of America *ex rel.* John Turner complainant, appellant against William Williams, U. S. commissioner of immigration for the port of New York defendant, appellee as the same remain of record and on file in my office.

In testimony whereof, I have caused the seal of the said court to be hereunto affixed, at the city of New York, in the southern district of New York, in the second circuit, this 31st day of December, in the year of our Lord one thousand nine hundred and three, and of the Independence of the said United States the one hundred and twenty-eighth.

[Seal of U. S. Circuit Court, South. Dist. New York.]

JOHN A. SHIELDS, *Clerk.*

[Endorsed:] United States Supreme Court. United States *ex rel.* John Turner appellant *vs.* William Williams, U. S. comm'r immigration port of New York appellee Transcript of record from the circuit court of the United States for the southern district of New York.

Endorsed on cover: File No. 19,212. S. New York C. C. U. S. Term No. 561. The United States *ex rel.* John Turner, appellant, *vs.* William Williams, United States commissioner of immigration for the port of New York. Filed January 22d, 1904. File No. 19,212.